

RAD Supplemental Webinar Questions – 8/9/2023

The following questions were posed to HUD staff during the 8/9/2023 webinar on the RAD Supplemental Notice announced on 7/27/23. The questions below were entered into the chat by participants. HUD staff collected these questions and have provided written responses below.

You can find a recording on of the presentation here:

https://www.radresource.net/webinar_show.cfm?vid=213

You can download a copy of the slides from the presentation here:

<https://www.radresource.net/webinars/2023-08-09%20RAD%20Supplemental%20External%20Webinar.pdf>

If you have additional questions, please email them to RAD@hud.gov

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Notice Timing and Implementation

1. Estimated time for Federal Register Notice publication?

The RAD Supplemental Notice is effective August 21, 2023 with the publication of the accompanying Federal Register Notice announcing the programmatic changes. Certain sections of the Notice are effective immediately while others have a grace period. Below is an overview of the implementation dates:

Program Area	Effective Date	Conditions Specific to Implementation
RAD for PRAC	Immediately – 8/21/2023	None
Faircloth-To-RAD	Immediately – 8/21/2023	None
HQS	10 days after Federal Register Publication – 8/31/2023	None
RAD/Section 18 Blends	Immediately – 8/21/2023	None
Zero-HAP Residents	10 days after Federal Register Publication – 8/31/2023	Must notify project owner and family of new alternate rent to be paid by the zero-HAP family no later than 11/19/2023 (i.e., families whose TTP exceeds Gross Rent and will have a reduction in tenant rent as a result of the new Zero-HAP Rent Cap).
Radon	14 days following Federal Register Publication – 9/4/2023	Applies to Financing Plans or Conversion Plans submitted on or after 9/4/2023. Any project that has a complete Financing Plan or Conversion Plan prior to the Effective Date, is subject to the previous provisions of the RAD Notice, Rev-4.
Energy Efficiency	30 days following Federal Register Publication – 9/20/2023	Applies to Financing Plans submitted on or after 9/20/2023. Any transaction that has a complete Financing Plan prior to the Effective Date, is subject to the previous provisions of the RAD Notice, Rev-4.
Resident Engagement	30 days following Federal Register Publication – 9/20/2023	If a transaction has progressed beyond the point that changes apply, transaction will be held to the previous provisions of the RAD Notice.

2. Will copies of the slides be provided to attendees?

Yes, you can find a copy of the slides [here](#).

You can find a copy of the recording [here](#).

202 PRAC Preservation Rent Increase

3. For the Section 202 rent bump, does the \$12 million go to the first year of the HAP? In following years, will it add to the renewal baseline cost?

Yes, Congress authorized \$12M to support the increase of 202 PRAC contract rents at conversion for properties converting to a Multifamily Project Based Rental Assistance (PBRA) contract. Properties are eligible for an increase to the contract rents of up to \$250 per unit per month. This funding will be applied to the HAP contract for months in the year of conversion plus the first full year after conversion. Beginning with the second full year after conversion, the HAP contract is funded with Section 8 renewal funds.

Note that the owner's scope of work must enhance climate resilience, energy or water efficiency, or incorporate design for the elderly to age in place to qualify. The owner must also demonstrate that the transaction would not otherwise be feasible without the increased funding.

See Section 4.6.D on Initial Contract Rent Setting for 202 PRAC conversions to PBRA in the revised Notice for more information on the Preservation Rent Increase.

4. Is there any change to PBV rent setting for 202 PRAC conversions?

No, the changes in the Supplemental Notice for PRAC rent setting apply strictly to PBRA conversions. Only PBRA conversions can come in at over 120% FMR, and only PBRA conversions would be eligible for the Preservation Rent Increase.

Section 4.5.H of the RAD Notice concerning Initial Contract Rent Setting for PBV conversions remains unchanged.

5. Is the rent increase only for preservation 202s, or would new construction 202s be eligible as well?

Newly constructed 202 capital advance projects are eligible to apply for the Preservation Rent Increase, however the projects must convert to RAD immediately upon placement in service and must satisfy the other requirements of the Supplemental Notice.

6. At what point can properties request this [202 PRAC Preservation Rent Increase]?

Once the Federal Register Notice is published, owners are free to log on to the RAD Resource Desk and fill out a Preservation Rent Increase Request. The information is submitted as part of the Conversion Plan. Any project that has not closed is eligible for request a Preservation Rent Increase, assuming it can meet the other requirements specified in Section 4.6.D of the revised RAD Notice. Namely, the owner must demonstrate that the construction or substantial rehabilitation will enhance climate resilience, energy and water efficiency, and/or appropriate design for the elderly residents to age-in-place. The owner must also demonstrate the increase is necessary for the viability of the transaction.

7. We have a mixed transaction of rehab of a 202 PRAC with new construction of LIHTC-only. Would the hard costs for comparison to the HCCs be the rehab only or the whole project? The amount of per unit funding a project qualifies for under the Preservation Rent Increase depends on the amount of hard construction costs proposed for the **entire** project, relative to an area's Housing Construction Costs as calculated by HUD.

You can verify your eligibility for a Preservation Rent Increase by using the "202 PRAC Preservation Rent Increase Eligibility Tool" found on the RAD Resource Desk, in the RAD Multifamily Document Library.

8. For projects that are in underwriting stages with lenders will HUD provide revised comfort letters as applicable for the rent increases described here? Yes, HUD will provide a revised comfort letter specifying the conditions of the Preservation Rent Increase and/or the Utility Savings increases, if needed. Contact your assigned transaction manager if you need a comfort letter.
9. For the \$250 rent bumps, do previously approved OCAF bumps count against the \$250 or could the new \$250 bump be added to the already increased rents? For newly constructed capital advance projects, the Preservation Rent Increase (up to \$250 per unit per month) is added to rents **after** the Operating Cost Adjustment Factor is applied to initial PRAC rents.

202 PRAC Tenant-Paid Utility Savings

10. Are the utility savings available to both PBV and PBRA 202 conversions? No. Per section 4.6.D. of the revised Notice, the ability to add 75% of tenant paid utility savings to the converting project's contract rents is limited to **PBRA** conversions.
11. If we were trying to convert without a need for financing / upgrade in utilities but our rents are currently low. Can you confirm this [utility savings] change will not help us? The utility savings change is based on an analysis of the reduction of the utility allowance in properties where the utilities are tenant-paid. If you are planning a conversion in which you do not expect any reductions in tenant utility consumption, this provision would not help you increase your contract rents at conversion.
12. If the \$100/\$250 rent bump for PRACs is still limited by the 120% of FMR cap, is the bump for utility savings similarly limited (still limiting the rents to 120% of FMR)? Yes, properties seeking an increase in their contract rents due to reductions in tenant-paid utilities would still be limited to the 120% FMR cap. However, the FMR rent cap is calculated less any utility allowance, so in practice, this would never be an issue because the rent cap would be increased by the reduction in utility allowance. See the example in the table below.

	120% FMR	Utility Allowance	Calculated Rent Cap (120% FMR - Utility Allowance)	Contract rent	Gross Rent (Contract Rent + Utility Allowance)
Pre- Utility Allowance Increase	\$1,200	\$200	\$1,000	\$800	\$1,000
Post- Utility Allowance Increase	\$1,200	\$100	\$1,100	\$875 (\$800 + 75% of \$100)	\$975

13. Are there professional engineering studies that estimate utility savings from replacement of windows?

Yes, the heat loss from energy inefficient windows is well documented and can result in utility savings. Owners are required to upload a third-party utility allowance projection, typically performed by engineer, that is project specific.

Resident Engagement and Protections

14. The resident engagement changes being discussed are for RAD 1, not PRAC, correct?

Correct, the resident engagement changes implemented in the Supplemental Notice apply only to public housing conversions (also known as RAD 1, or First Component). They do not apply to Section 202 PRAC conversions, or any other second component conversions.

See Section 1.8 on Resident Engagement/Resident Notification in the revised Notice for further details.

15. Can the two resident meetings prior to application and prior to Concept call take place on the same day (morning / afternoon) or are they supposed to be spread out over weeks or months?

Yes, there is no requirement that the resident meetings take place on different days. The intent of the requirement is to ensure broad awareness among residents about potential future plans. If two meetings held on the same day at different times facilitate that, it would be permissible.

As a best practice, meetings held later in the conversion process are better if spread apart to provide meaningful and timely updates to residents and plans develop and change.

See Section 1.8 on Resident Engagement/Resident Notification in the revised Notice for further details.

16. If a PHA has NOT yet submitted an application but has begun the resident meetings, are they subject to the Notice requirements (e.g. imagine the FR publishes before the application is submitted)

The resident engagement changes under the Supplemental Notice take effect on 9/20/2023 (30 days following the publication of the Federal Register Notice). If that 30-day period has passed and the PHA has not yet submitted its application, the revised meeting requirements under the Supplemental Notice will apply.

17. When will the resident engagement template be up on the RAD resource desk?

The Resident Engagement and Protections template is available in the Document Library on the RAD Resource Desk under the “Working with Residents” section.

Energy Efficiency

18. For projects that are already designed and in for permits or have received permits, with HUD applications submitted (but have not started construction), is it correct that we won't have to re-design projects to meet these new higher design standards?

Correct, projects that are already permitted and are beyond the Financing Plan stage of the RAD conversion would not be subject to the new design standards.

19. Will no-debt conversions require disaster plans and energy efficiency?

Conversion without rehab or construction are still required to meet the Climate Resilience requirements listed under Section 1.4.A.2 of the revised RAD Notice. This requires examining the climate hazards in FEMA’s National Risk Index, identifying how the project is accounting for those risks through its scope of work, and developing a property-wide disaster plan.

The new energy efficiency standards included in the Supplemental Notice apply only to new construction projects.

20. How long is the CNA good for when applying for the conversion?

Per Section 1.4.A.1 of the RAD Notice, for public housing conversions, a CNA must be submitted with the Financing Plan and must have been completed no earlier than 180 days prior to submission of the Financing Plan, except with HUD approval.

For Mod Rehab (Section 2.4.A of the RAD Notice) and Section 202 PRAC conversions (Section 4.4.B of the RAD Notice), the CNA is valid for 12 months.

21. For the [climate hazard] mitigation methods in the e-tool, is documentation meant to mean these items are to be listed as repair items?

Under the changes in the Supplemental Notice, all PHAs are required to identify the climate hazards that the property may be subject to (as determined by FEMA’s National Risk Index) and to address via a narrative and in the CNA e-tool how those hazards are being addressed in the scope of work.

Yes, Documenting the mitigation efforts in the CNA e-tool can be accomplished by including any necessary work as a repair item in the CNA.

Zero HAP Residents

22. How do you determine if you are eligible for zero-HAP waiver?

Only PBV units require a waiver. If you are applying for a RAD conversion, you will be advised during the CHAP application process via the RAD Resource Desk that you **may** be eligible for a waiver if converting to PBV, and you will be given opportunity to confirm.

Eligibility is determined by verifying that the 2-BR RAD gross rent at the property is less than the midpoint between 30% of the very low-income and 30% of the extremely low-income HUD income limits for a 4-person household in the area.

After eligibility is confirmed, the Office of Recapitalization will include a provision in the RCC approving the waiver to admit Zero-HAP residents for the term of the contract (no waiver is necessary for PBRA).

See Section 1.6.C.9 of the revised RAD Notice for more details.

23. Will this apply to units that had previously converted as well?

Yes, the Zero-HAP waiver applies to units that have previously converted. Closed PBV conversions that wish to receive a waiver to admit new zero-HAP residents, must submit the request through the standard PIH waiver process (Notice PIH-2018-16), through the field office (A waiver is not needed for PBRA conversions).

No waiver is required for PBRA properties. See Section 1.6.C.9 of the revised RAD Notice for more details.

24. The PBV provisions related to zero-HAP are for families in place at the time of conversion AND families admitted post-conversion?

For PBV, the zero-HAP rent cap applies to families in place at the time of conversion and will apply to new admissions post-conversion where the PHA has obtained the Zero-HAP waiver. See Section 1.6.C.9 of the revised RAD Notice for more details.

For PBRA, no waiver is required. The zero-HAP rent cap applies to in place families at the time of conversion and new admissions at PBRA conversions.

25. For PBV - is a zero-HAP waiver needed every time a zero-HAP family applies? Or is it just the first time a zero-HAP family applies?

The waiver is only needed one time and is granted for all new admissions after approved. See Section 1.6.C.9 of the revised RAD Notice for more details.

26. There is an existing waiver process for zero-HAP admissions, but it is hard to meet the requirements. What are the requirements to receive a waiver under the Supplemental Notice?.

Eligibility is determined by verifying that the 2-BR RAD gross rent at the property is less than the midpoint between 30% of the very low-income and 30% of the extremely low-income HUD income limits for a 4-person household in the area. So long as the project meets this requirement, the waiver will be granted.

27. Is the calculation to determine the eligibility for waiver always based on the 2-BR RAD rent, even if the property does not have that size unit or we are housing larger or smaller families?

Yes, the calculation for the waiver is standard for all properties. The Office of Recapitalization calculates RAD rents for all bedroom sizes even if the property in question does not have that size unit.

28. For purposes of the Zero-HAP Waiver, if a PHA is an MTW agency and is planning to supplement the RAD rents with MTW fungibility to increase the contract rent, does the agency look at just the RAD rents or the overall contract rent to see if TTP is greater than the gross rent?

The calculation for the Zero-HAP waiver would be done on the overall contract rent, inclusive of any augmentations or rent increases.

29. If you have an RCC and are close to closing, should you ask for a Zero HAP waiver post-closing?

It is more efficient to ask for a Zero-HAP waiver prior to a PBV closing. After PBV closing you would need to request a waiver by submitting a request through the standard PIH waiver process (Notice PIH-2018-16), through the field office (A waiver is not needed for PBRA conversions).

30. The slide on new admissions says for PBRA "owners may admit" but the notice says "shall" please clarify.

The language in the notice prevails. PBRA owners must admit existing residents or new admissions otherwise eligible for PBRA assistance even if their total tenant payment exceeds the HAP contract rent.

See Section 1.7.B.9 of the revised notice for more information.

31. Do HOTMA over income provisions apply to RAD projects?

Tenancy and program participation limits prescribed by Section 103 of HOTMA pertain to Over-Income Public Housing residents, and no longer apply after a property converts under RAD.

RAD & Section 18 Blends

32. For Blends, the revision exempts PHAs with an ownership interest from the competitive selection process; but, do PHAs still need an independent entity to confirm the PBV rents?

Yes, a PHA would still need an independent entity to confirm the PBV rents.

Faircloth-to-RAD

33. How can we get an estimate of the RAD rents for a Faircloth-to-RAD project for financial feasibility studies?

To request the estimated RAD rents, submit a new Faircloth-to-RAD application on the RAD Resource Desk to request a Notice of Anticipated RAD Rents (NARR).

34. Is Faircloth-to-RAD development available after a PHA closes out its Public Housing?

Certain repositioning tools (i.e., Streamlined Voluntary Conversion, Small PHA RAD Blends, Section 18 "under 50") require the PHA to close out its public housing program. However, a PHA can utilize these tools and still develop their remaining available Faircloth authority through Faircloth-to-RAD **prior** to closing out their public housing program.

As an example, a 122-unit PHA with 44 units of additional Faircloth authority decides to pursue a Small PHA RAD & Section 18 Blend. The PHA may complete their RAD & Section 18 Blend transaction and unit removal and then delay their mandatory close out in order to first develop up to 44 units of Faircloth to RAD units. The PHA may not develop traditional PH units, and the PHA must complete close out activities following the closing of their Faircloth-to-RAD project.

HUD will allow PHAs to delay public housing closeout until Faircloth-to-RAD units are developed and converted. Note that this is limited to Faircloth-to-RAD development. PHAs are not permitted to develop public housing units (conventional or mixed finance).

35. This notice does not appear to address the problem of the ACC rent being below the RAD rent after conversion. Because of this difference, it is impossible to convert from construction financing to permanent financing until the RAD rents start flowing in the year post conversion, which could be as much as 13 months. This is still a large impediment to a non-MTW agency doing Faircloth-to-RAD.

Initial Faircloth-to-RAD rent amounts are typically lower than traditional RAD rents. That is because the calculation of Capital Fund portion of the Faircloth-to-RAD rent is sized for a newly constructed building, which means that portion is usually at, or close to, zero.

As described in Section 1.6.B.5.F of the revised RAD Notice, when a non-MTW PHA uses existing HAP reserves to supplement the initial contract rents, HUD will only provide new incremental voucher funding for the first full calendar year following conversion using per unit costs (PUCs) based on normally applicable public housing subsidy levels.

This means that a PHA would have to set aside funding to cover the operating costs for the unit from the time between closing until the beginning of the next calendar year, when the HAP contract would begin providing funding.

36. Would the commitment of rent augmentation funds from HAP reserves be a one-time use of funds i.e., would it be funded in subsequent years from the overall ACC refunding, not from reserves? Is the total amount of funds the PHA would need to contribute from the reserves would be a similar calculation to the DDTF for a 20-year contract?

For agencies whose renewal funding is based on HAP expenses in the prior year (expansion MTW agencies and non-MTW agencies), PHAs will generally use voucher reserves to augment the rents. Once expended, as with any other eligible expenditure of voucher reserves, those funds will be built into the agency's voucher renewal baseline for the following year.

In this way, expansion MTW agencies and non-MTW agencies using reserves to augment their Faircloth-to-RAD rents will not need to expend reserves every year; the augmented rents will be picked up in their renewal funds in the 2nd full year following conversion.

The calculation for non-MTW agencies using their voucher reserves to augment their Faircloth-to-RAD rents is different from the calculation an agency uses when applying Demolition and Disposition Transitional Funding (DDTF). DDTF is single-use, meaning the amount of DDTF set aside must be enough to cover the entirety of the 20-year contract. It does not get renewed in subsequent years.

37. When can you submit the RAD application in a Faircloth-to-RAD transaction? Can Faircloth-to-RAD projects apply to RAD prior to having units in PIC?

You begin the Faircloth-to-RAD conversion process by requesting a Notice of Anticipated RAD Rents (NARR) via the RAD Resource Desk. The NARR shows the projected post-conversion rents and receipt of a signed NARR from HUD reserves RAD conversion authority for the project.

There is no commitment to pursue a project with a NARR request, so PHAs are encouraged to request a NARR as early in the development process as possible, or desired.

After receiving the NARR, you would then put together a Mixed Finance Development Proposal and submit it to the Office of Public Housing Investments. Immediately after approval of the Mixed Finance Development Proposal, the Office of Recapitalization issues the RAD Conversion Conditional Approval (RCCA), stipulating the conditions upon which the PHA is receiving conditional approval and outline the steps that need to be completed for the PHA to effectively convert through RAD.

When the project reaches its Date of Full Availability (DOFA) and after confirming the units have been entered into PIC, the Office of Recapitalization automatically issues the Commitment to Enter into a Housing Assistance Payments Contract (CHAP) and the RAD Conversion Commitment (RCC). The DOFA is the last day of the month in which substantially all (95% or more) of the units in a public housing project are available for occupancy.

In a Faircloth-to-RAD development, the units are brought online as public housing and entered into PIC before the RCC is issued, but the process begins with the NARR request.

38. Can you speak to the timeline of the RCC notice in terms of conversion in a Faircloth-to-RAD deal?

The RAD Conversion Commitment (RCC) is issued after the mixed-finance transaction has closed. As the project nears construction completion, the PHA notifies the Office of Recapitalization (Recap) and Recap will coordinate with PIH to monitor when the units are entered into PIC and established as public housing. Once the units are in PIC, and the project has reached its Date of Full Availability (DOFA), Recap automatically issues the Commitment to Enter into a Housing Assistance Payments Contract (CHAP) and the RCC. The DOFA is the last day of the month in which substantially all (95% or more) of the units in a public housing project are available for occupancy. The RAD conversion can then proceed to final RAD closing reviews.

If tenants are admitted to the property after issuance of an RCC and prior to the closing of the RAD conversion, then the PHA shall, *prior* to the execution of the lease: 1) provide written notification in the form of a RAD Information Notice; 2) Provide written explanation of leasing and occupancy changes that will occur post move-in resulting from the RAD conversion; and 3) meet with each

resident household to discuss conversion, explain written materials, and provide residents an opportunity to ask questions.

If you do not lease the property prior to the RAD closing, then these requirements do not apply.

It is up to the discretion of the agency whether they want to convert the units to RAD before leasing or wait until after leasing to convert to RAD. Waiting until after leasing would require the agency to follow the appropriate notification requirements specified in Section 1.8.I of the revised RAD Notice.

HQS Changes

39. In a RAD/Section 18 Blend does the owner certification only apply to Section 18 units, the RAD units or both?

The owner certification that the PHA has no reason to believe there are life-threatening issues at the property applies to all units in the converting property.

40. Does HQS still apply or are PHAs and owners supposed to use the new NSPIRE standards?

PHAs and owners are to follow HQS inspection standards for units converting to PBV until such time that implementation guidance for transition to NSPIRE is issued by HUD.

41. Can you please clarify - if HQS applies during the period of work in order for assistance to be paid on behalf of a household, in addition to correcting any identified deficiencies, is there a need for an HQS inspection in order to provide subsidy or can the PHA rely on the certification in the absence of a deficiency being otherwise identified?

An HQS inspection should still be done after completion of the work. The owner certification that the PHA has no reason to believe there are life-threatening issues at the property is accepted for the period between closing and completion of work. The PHA may continue to provide subsidy to the unit so long as there are no life-threatening deficiencies that are known to the PHA and uncorrected within the required timeframes. PHAs and owners may agree that any non-threatening deficiencies may be corrected in the scope of work prior to completion of the work.

42. Are any HQS inspections required between closing and completion of the work?

No HQS inspections are required prior to the completion of the Work. However, if the PHA has some indication that there are HQS violations that contradict the certification or that arises after the certification (such as a tenant complaint) then the PHA may need to inspect in order to identify and correct deficiencies. In those situations, the owner is still obligated to correct life threatening deficiencies within 24 hours. Non-life-threatening issues should be addressed within 30 days (or more if approved by the PHA), but no later than the date of completion of work.

43. Can you provide a list of life-threatening conditions?

[Notice PIH 2017 - 20 \(HA\)](#) provides a listing of life-threatening and non-life threatening conditions.

Radon

44. With the requirement to test 100% of ground level units for radon, what allowances will HUD give for no access to a unit or failed testing conditions? AARST provides an allowance table, but it is not clear if HUD will follow the same or offer different allowances. Thanks!

The PHA must submit a Radon Report consistent with the requirements of Section 9.6.3.2 of the MAP Guide (or successor provision) for HUD to review. The MAP guide lays out guidance for when early testing is not feasible. It also provides guidance on appropriate mitigation measures in the case of a failed test.

Section 9.6.3.2.D of the MAP guide specifies that “the threshold for unacceptability is 4.0 picocuries per liter (4.0 pCi/L) based on initial and any confirmatory testing, if performed.”

45. The Radon policy applies to PRAC conversions, as well?

Yes, the Radon policy applies to all RAD conversions, including Section 202 PRACs.

46. How do we handle Radon testing requirement at a new construction site?

For new construction, radon testing is to be done prior to occupancy. PHAs will not provide a radon report at the time of Financing Plan submission, rather, the radon report will be provided to HUD with the completion certification on the RAD Resource Desk.

47. Will HUD accept a radon report completed in accordance with the AARST standard or does HUD have additional requirements or standards it utilizes in its review?

The PHA must submit a Radon Report consistent with the requirements of Section 9.6.3.2 of the MAP Guide (or successor provision) for HUD to review. Per the MAP guide, “Radon testing must follow the protocols set by the American Association of Radon Scientists and Technologists, Protocol for Conducting Radon and Radon Decay Product Measurements in Multifamily Buildings (ANSI-AARST MAMF-2017) (available at www.standards.aarst.org). This includes testing 100% of ground floor units and 10% of upper floor units in all buildings included in the project.”